

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10888 of 2012

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Bikram Kumar Singh S/O Om Prakash Singh R/O Village- Launa,P.O.-
Launa Parsa, P.S.- Tarapur, District- Munger

.... Petitioner

Versus

1. The Bihar Staff Selection Commission, Patna Through Its Secretary
Having Office Under P.O. Veterinary College, Patna-800 014
2. The Chairman, The Bihar Staff Selection Commission Patna, P.O.-
Veterinary College, Patna-14
3. The Secretary The Bihar Staff Selection Commission, Patna

.... Respondents

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with

Civil Writ Jurisdiction Case No.10901 of 2012

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Ranjeet Kumar Son Of Sri Nareh Yadav Resident Of Village - Maya Bigha,
P.O. Solhanda, P.S. Makhdumpur, District - Jehanabad

.... Petitioner

Versus

1. The State Of Bihar , Through The Secretary, Bihar Staff Selection
Commission, Bihar, Patna
2. The Bihar Staff Selection Commission, Bihar Patna, Through Its
Secretary
3. The Secretary, Bihar Staff Selection Commission, Bihar Patna
4. The Principal Secretary, Personnel And Administrative Reforms
Department, Bihar, Patna

.... Respondents

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with

Civil Writ Jurisdiction Case No.16091 of 2012

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Ravina Kumari Daughter Of Raj Kumar Singh, Wife Of Upendra Nath
Verma Vill + P.O. Jadua, Via- Hajipur, District - Vaishali

.... Petitioner

Versus

1. The State Of Bihar Through The Secretary, Bihar Staff Selection
Commission, Bihar, Patna
2. The Bihar Staff Selection Commission, Bihar Patna, Through Its
Secretary
3. The Secretary, Bihar Staff Selection Commission, Bihar Patna
4. The Principal Secretary, Personnel And Administrative Reforms
Department, Bihar, Patna

.... Respondents

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with

Civil Writ Jurisdiction Case No.9756 of 2012

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1. Manoj Kumar Tiwary S/O Ravi Shakar Tiwary C/O Swatantra Prasad
Singh, Post Office, Road, Punaichak, P.S- Shastrinagar, District- Patna.
 2. Ashwini Kumar Jha S/O Nirmal Jha Resident Of Village- Kahara, P.O-

Kahara, Madanpur, Via- Dhabouli, P.S- Patarghat, District- Saharsa.

3. Suman Kumar Pathak S/O Chandra Kant Patham C/O Gopal Prasad Near Basantkunj Apartment, Post Office Road, Punaichak, P.S- Shastrinagar, Distt- Patna.

.... Petitioners

Versus

1. The State Of Bihar, Through The Secretary, Bihar Staff Selection Commission, Bihar, Patna.

2. The Bihar Staff Selection Commission, Bihar Patna, Through Its Secretary.

3. The Secretary, Bihar Staff Selection Commission, Bihar, Patna.

4. The Principal Secretary, Personnel And Administrative Reforms Department, Bihar, Patna.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

3 24-01-2013

Having regard to the admitted position in all these four

cases that the petitioners- candidates did not comply the instruction given in OMR sheet and had not filled up the specimen paragraph in their own handwriting, this Court would find that the petitioners would not be eligible for being marked in that particular paper. The whole aspect has been considered by this Court in a recent order in the case of Dhiraj Kumar vs. the State of Bihar & ors. (C.W.J.C.No. 14253/2012) wherein it has been held as follows:

“Having heard learned counsel for the parties, this Court is of the considered opinion that once it becomes an admitted fact that the petitioner had not complied the mandatory requirement of the important instruction given on the OMR Sheet and had not at all filled in the passage portion provided on the OMR Sheet in his own handwriting, he would not be entitled

to claim for being given marks for the answers given by him. From the photocopy of OMR Sheet of the petitioner Annexure-2 to the counter affidavit, it is absolutely clear that the petitioner had not at all filled in the requisite space by the reproducing the passage in his own handwriting and had merely put his signature in Hindi and English. Once the petitioner therefore had not done so, he had to undergo to consequence which could extend even up to cancellation of his candidature itself as was also mentioned in the same page of the OMR Sheet, reading as follows:-

“आवश्यक/IMPORTANT

नीचे लिखी पुरे गद्यांश को नीले/काले प्वांट कलम से अपनी हस्तलिपि में पूर्ण रूप से लिखकर अपना पूरा हस्ताक्षर हिन्दी तथा अंग्रेजी में निर्धारित स्थान पर करें। हस्तलिपि जाँच के लिए यह अनिवार्य है और ऐसा नहीं करने पर आपके उत्तर पत्रक /उम्मीदवारी को रद्द कर दिया जायेगा।”

In that view of the matter, when there is also no denial to this aspect by the petitioner by filing any rejoinder to the counter affidavit and in fact, there could have been none, in view of production of the clinching evidence namely the photocopy of the OMR Sheet of the petitioner in the counter affidavit this Court will have no difficulty in holding that the respondents had not committed any error in not awarding the marks in the said OMR Sheet. This very issue has also been considered decided by the learned single Judge of this Court at length in an order dated 7.10.2010 in CWJC No. 15986 of 2010 (Abhishek Kumar Adig Vs. The Chairman, Bihar Combined Entrance Competitive Examination & Ors.) wherein it

was held as follows:-

"The conduct of examination, the manner in which the answer sheet has to be written, the requirements to be fulfilled by the examinee are matters to be determined by the examining body and not by the Court. The examining body is the expert in the matter and lays down the conditions. The Court cannot supplement or supplant its view for the expert examining body. If a passage was specified and it was required to be rewritten for purpose of identification of handwriting to verify whether the candidate was the same who appeared at the stage of counseling the purpose is salutary and cannot be classified as arbitrary, irrelevant or relaxable to warrant any interference.

If the passage was printed and it was required to be reproduced, and the space provided was sufficient for reproduction of the entire passage, prudence dictates that it was the entire passage which was to be rewritten unless the instructions contained an exception that even a part of the passage could be reproduced. In absence of any such instruction that only a part of the passage could also be reproduced this Court finds no reason warranting interference in the matter. The petitioner having reproduced a part of the passage only numbering 38 words in stead of full 78 words, the Court finds no infirmity in the action of the respondents in refusing to consider evaluation of his Biology answer sheet.

In AIR 1992 SUPREME COURT 952 (Karnataka Public Service Commission v. B. M. Vijaya Shankar) it has been held at paragraph 3 as follows:-

3. Such instructions are issued to ensure fairness in the examination. In the fast deteriorating standards of honesty and morality in the society the insistence by the Commission that no attempt should be made of identification of the candidate by writing his roll number anywhere is in the larger public interest. It is well known that the first page of the answer book on which roll number is written is removed and a fictitious code number is provided to rule out any effort of any approach to the examiner. Not that a candidate who has written his roll number would have approached the examiner. He may have committed a bona fide mistake. But that is not material. What was attempted to be achieved by the instruction was to minimize any possibility or chance of any abuse. Larger public interest demands insistence of observance of instruction rather than its breach.

In 2002 (2) PLJR 105 (Bihar Public Service Commission & another Vs State of Bihar & others) the candidate had written answers to some questions by pencil outside the brackets provided for answers.

His answer sheet was cancelled in the paper of E.N.T. The Division Bench of this Court held that violation of a condition or instruction of an examination provided for a fair examination was sufficient to cancel the candidature and it was wholly relevant that the bonafides of the students was not in question."

This Court would find that the ratio of the aforesaid judgment in the case of Abhishek Kumar (supra) would fully apply in all respect to the facts and circumstances of the present case as well.

That being so, this application for reasons indicated above is wholly misconceived and the same is, accordingly, dismissed."

It has to be also noted that in a similar matter when the learned Single Judge had taken the view with regard to disqualification of a candidate not filling up OMR sheet and had consequently dismissed the writ application, the matter was taken in appeal and a Division Bench of this Court in L.P.A.No. 96/2013 has dismissed the appeal by an order dated 22.1.2013.

That being so, all these four cases are also fully covered by the order of this Court in the case of Dhiraj Kumar (supra) and all these four applications are accordingly dismissed.

(Mihir Kumar Jha, J)

surendra/-